



A BILL FOR AN ORDINANCE

RELATING TO GRADING WITHOUT A PERMIT.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the regulations on grading without a permit.

SECTION 2. Section 14-14.4A, Revised Ordinances of Honolulu 1990, as amended ("Grading without a permit"), is amended to read as follows:

"Sec. 14-14.4A Grading without a permit.

(a) Where work for which a grading permit is required by Articles 13 through 16 of this chapter has been commenced or has been accomplished without a permit, a permit shall be obtained, and double the fees specified in Section 14-14.4 shall be assessed, provided that such work complies with or may be made to comply with the provisions of Articles 13 through 16 of this chapter.

(1) If the grading work accomplished or commenced cannot be made to comply with the provisions of Articles 13 through 16 of this chapter, the owner and developer of the property or person or persons responsible for the initiation or accomplishment of such grading work shall restore the land to its original condition and shall obtain a certificate of completion therefor from the [chief engineer.] director.

(2) Any filling performed without a permit will not be deemed a structural fill.

(3) Any owner and developer of the property or person or persons responsible for the initiation or accomplishment of grading work in willful violation of Section 14-14.1 shall not be issued a grading permit and shall restore the land to its original condition. This prohibition and requirement applies whether or not such person is able to make the grading compliant with the provisions of Articles 13 through 16 of this chapter.

In determining whether a violation was willful, the director shall consider any relevant mitigating and aggravating factors, including, but not limited to:

(A) The effect, if any, of the violation;



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- (B) The degree and extent of harm caused by the violation;
- (C) The cost of rectifying the damage;
- (D) Whether the violator received economic benefit through noncompliance;
- (E) Whether the violator took reasonable measures to comply with this chapter;
- (F) Whether the violator acted in bad faith;
- (G) Whether the violator reported the violation; and
- (H) The violator's record of compliance or noncompliance with previous orders issued pursuant to this chapter and other permits issued by the department of planning and permitting.

[(3)](4) Notwithstanding the above, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have violated the provisions of Articles 13 through 16 of this chapter by grading without a permit.

- (b) The owner and developer of the property or the person or persons responsible for the initiation of grading shall be responsible for correcting any damages done by the grading on-site or off-site.
 - (1) Off-site correction(s) and restoration shall include but not be limited to damages to improvements within the public right of way, any portions of the city-owned separate storm sewer systems, or private drain systems and the removal of any sediment and debris from the public right-of-way and any drainage facility.
 - (2) On-site correction(s) and restoration shall include covering of exposed soil surfaces with planting, correction of improper excavation or fills, and drainage.



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- (c) Where the grading work accomplished or commenced cannot be made to comply with the provisions of Articles 13 through 16 of this chapter, the person or persons responsible shall post a performance bond in an amount sufficient, as determined by the [chief engineer,] director, to ensure payment of all costs of restoring the land to its original condition, and any damages which have occurred to any improvement(s) in the public right-of-way in the event that the person or persons responsible do not satisfactorily perform said restoration. Such performance bond shall be maintained in force for a period of one year after the restoration work has been completed, and no certificate of completion for said work shall be issued by the [chief engineer] director until one year has elapsed after the physical work of restoration has been completed.”

SECTION 3. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, bracketed material or, underscoring.



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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Kimberly Perez

DATE OF INTRODUCTION:

APR 09 2014

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu